

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

GRACENOTE, INC.,	)	
	)	
<i>Plaintiff,</i>	)	
v.	)	C.A. No. 1:18-cv-01608-RGA
	)	
FREE STREAM MEDIA CORP.	)	
d/b/a SAMBA TV,	)	
<i>Defendant.</i>	)	

**JOINT STIPULATION TO STAY THE CASE FOR 70 DAYS**

Plaintiff Gracenote, Inc. (“Gracenote”) and Defendant Free Stream Media Corp. (d/b/a Samba TV) (“Samba TV”) (together, “the parties”) jointly stipulate, subject to the Court’s approval, to stay this case for an additional seventy (70) days and to extend all deadlines in the Scheduling Order by approximately 70 days. In support of this joint stipulation and request, the parties state as follows:

1. On April 14, 2020, the parties filed a Joint Stipulation to Stay the Case for 90 Days (“the First Joint Stipulation”) (D.I. 47). In the First Joint Stipulation, the parties explained that the deadline for Gracenote’s infringement contentions – which are required to include pinpoint cites to Samba TV’s source code – was approaching quickly, but conditions imposed by the COVID-19 pandemic made review of Samba TV’s source code impossible.
2. The Court granted the First Joint Stipulation on the day it was filed (April 14, 2020) (D.I. 48). The resulting stay expired on July 13, 2020.
3. On July 14, 2020, the parties filed a Joint Stipulation to Stay the Case for 80 Days (“the Second Joint Stipulation”) (D.I. 49). In the Second Joint Stipulation, the parties explained

that conditions imposed by the COVID-19 pandemic continued to make review of Samba TV's source code impossible.

4. The Court granted the Second Joint Stipulation on July 15, 2020 (D.I. 50). The resulting stay expired on October 1, 2020.

5. On September 22, 2020, the parties filed a Joint Stipulation to Stay the Case for 95 Days ("the Third Joint Stipulation") (D.I. 51). In the Third Joint Stipulation, the parties explained that conditions imposed by the COVID-19 pandemic continued to make review of Samba TV's source code impossible.

6. The Court granted the Third Joint Stipulation on September 23, 2020 (D.I. 52). The resulting stay expired on January 4, 2021.

7. On December 22, 2020, the parties filed a Joint Stipulation to Stay the Case for 90 days ("the Fourth Joint Stipulation") (D.I. 53). In the Fourth Joint Stipulation, the parties explained that conditions imposed by the COVID-19 pandemic continued to make review of Samba TV's source code impossible.

8. The Court granted the Fourth Joint Stipulation on December 29, 2020 (D.I. 54). The resulting stay will expire on April 5, 2021.

9. The parties now respectfully request an additional 70-day stay (until June 14, 2021) because the conditions imposed by the COVID-19 pandemic continue to make review of Samba TV's source code impossible.

10. Gracenote needs to conduct extensive further review of the source code to be in a position to serve its infringement contentions, which are now due on May 10, 2021 (D.I. 54). The source code requires in-person inspection at a secure terminal, pursuant to the agreed procedures set forth in the Source Code Access Agreement (D.I. 37).

11. However, due to the COVID-19 pandemic, Gracernote still has not been able to access Samba TV's source code for further review. The number of COVID-19 cases in California, where the source code can be made available, still has not sufficiently subsided. (*See* <https://covid19.ca.gov/stay-home-except-for-essential-needs/>.) As a result, California is under a stay-at-home order. (*See id.*)

12. In addition, Gracernote's technical expert who began to review the code prior to the pandemic resides in a foreign country from which travel to the United States would be difficult or impossible.

13. In particular, technical expert Jaap Haitsma resides in Chile. Chile, despite its success in distributing COVID vaccines, is imposing new lockdowns due to a recent spike in infections. Thus, any travel to the U.S. by Mr. Haitsma carries a substantial risk that he will be prohibited from returning to his home in Chile. (*See* <https://www.theguardian.com/global-development/2021/mar/28/chile-coronavirus-lockdowns-vaccination-success>.)

14. The lack of access to Samba TV's source code will require a delay in the due date for Gracernote's infringement contentions. Delaying the due date for infringement contentions will have a cascading effect on the other deadlines set forth in the Scheduling Order.

15. In a cooperative effort to enable the case to move forward quickly upon expiration of the stay, the parties have agreed that during the stay period, Samba TV will accept (and object to, if necessary) the identification of a Gracernote technical advisor who is proposed to be given access to source code and other confidential Samba TV information.

In light of the foregoing, the parties request that the Court stay this case for an additional 70 days and extend all deadlines for approximately the same amount of time. The chart attached

to this Joint Stipulation sets forth the current case schedule along with a proposed new schedule that moves each of the remaining deadlines by approximately 70 days.

Dated: March 31, 2021

Respectfully submitted,

By: /s/ Kelly E. Farnan

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IT IS SO ORDERED this 31 day of March, 2021

/s/ Richard G. Andrews

The Honorable Richard G. Andrews  
United States District Judge

### **CHART OF FUTURE DEADLINES**

<b>ITEM</b>	<b>CURRENT DATE</b>	<b>PROPOSED DATE</b>
Gracenote's responses to Samba TV's second set of requests for documents	April 6, 2021	June 15, 2021
Gracenote's responses to Samba TV's second set of interrogatories	April 6, 2021	June 15, 2021
Samba TV's responses to Gracenote's second set of requests for documents	April 19, 2021	June 28, 2021
Samba TV's responses to Gracenote's second set of interrogatories	April 19, 2021	June 28, 2021
Infringement contentions	May 10, 2021	July 19, 2021
Joinder of other parties and amendment of pleadings	June 7, 2021	August 16, 2021
Invalidity contentions	June 10, 2021	August 19, 2021
Exchange claim terms for construction and proposed constructions	June 24, 2021	September 2, 2021
Joint claim construction chart	July 7, 2021	September 15, 2021
Gracenote's opening claim construction brief	July 23, 2021	October 1, 2021
Document production complete	July 30, 2021	October 8, 2021
Samba TV's answering claim construction brief	August 13, 2021	October 22, 2021
Gracenote's reply claim construction brief	August 27, 2021	November 5, 2021
Samba TV's sur-reply claim construction brief	September 10, 2021	November 19, 2021
Parties file joint claim construction brief	September 17, 2021	November 30, 2021
Markman hearing	September 29, 2021	December 14, 2021
Amendment to contentions	30 days after <i>Markman</i> order	Unchanged
Claim and prior art reference narrowing	14 days after <i>Markman</i> order	Unchanged
Fact discovery cut-off	January 7, 2022	March 18, 2022
Burden of proof opening expert reports	February 14, 2022	April 25, 2022
Responsive expert reports	March 11, 2022	May 20, 2022
Reply expert reports	April 4, 2022	June 13, 2022
Complete expert depositions	May 13, 2022	July 22, 2022
Case dispositive motions	June 24, 2022	September 2, 2022
Answering briefs to dispositive motions	July 25, 2022	October 3, 2022
Reply briefs in support of dispositive motions	August 12, 2022	October 21, 2022
Pretrial conference	December 2, 2022	February 10, 2023
Trial begins	December 12, 2022	February 21, 2023